IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS E. PEREZ, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,)))
Plaintiff,)
v.) Civil Action No. 12-6171
AMERICAN FUTURE SYSTEMS, INC. d/b/a PROGRESSIVE BUSINESS PUBLICATIONS, a corporation; and EDWARD SATELL, individually and as President of the above referenced corporation,)))))
Defendants.))

PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff Thomas E. Perez, Secretary of Labor, U.S. Department of Labor ("Plaintiff" or the "Secretary"), respectfully moves, pursuant to Fed. R. Civ. P. 56, for partial summary judgment against Defendants American Future Systems, Inc. d/b/a Progressive Business Publications ("Progressive") and Edward Satell, individually and as Progressive's President.

Plaintiff seeks a partial summary judgment ruling that: 1) the employee breaks and other "log-off" periods of twenty minutes or less at issue in this action constitute compensable time pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA" or "the Act"); 2) where Defendants' failure to pay its low-wage employees for this compensable time resulted in the employees' actual rate of pay being less than the applicable minimum wage, Defendants have violated the FLSA's minimum wage provision; 3) Defendants are liable for liquidated damages

in amount equal to their liability for back wages as a result of this FLSA violation; 4)

Defendants' violations were willful in nature; 5) Edward Satell is an "employer" under Section 3(d) of the FLSA, 29 U.S.C. § 203(d); and 6) Defendants violated the recordkeeping provisions of Section 11(c) of the FLSA, 29 U.S.C. § 211(c), as a result of their failure to maintain records

of all hours worked by their employees.

The reasons for this Motion are set forth in the accompanying Memorandum of Law.

Respectfully submitted,

M. Patricia Smith Solicitor of Labor

Linda Thomasson Acting Regional Solicitor

s/ Adam F. Welsh
Adam F. Welsh
A. Scott Hecker
Attorneys

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Partial Summary Judgment, Proposed Order and Memorandum of Law was served on the following via electronic filing this 23rd day of May, 2014, and are available for viewing and downloading on the ECF system:

Lincoln Bisbee, Esq. Morgan, Lewis & Bockius LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004

I hereby certify that a true and correct copy of the foregoing Plaintiff's Supplemental Appendix in Support of Motion for Partial Summary Judgment was served on the following via hand delivery this 23rd day of May, 2014.

Lincoln Bisbee, Esq. Morgan, Lewis & Bockius LLP 1111 Pennsylvania Avenue, NW Washington, DC 20004

s/ A. Scott Hecker
A. Scott Hecker